

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:23-cv-00818-RJC-DCK**

JAMES JILEK, et al., on behalf of)
himself and all others similarly)
situated,)
)
Plaintiffs,)
)
v.)
)
COMPASS GROUP USA, INC., d/b/a)
Canteen,)
)
)
Defendant.)
)

ORDER

THIS MATTER is before the Court on Defendant Compass Group USA, Inc.’s Motion to Compel Plaintiffs Baldwin and Borrero’s Discovery Responses, (Doc. No. 288); the Motion for Voluntary Dismissal of Plaintiff Brian Baldwin’s Entire Action Without Prejudice, (Doc. No. 299); the Motion for Voluntary Dismissal of Plaintiff Andres Borrero’s Action Without Prejudice, (Doc. No. 300); and the Magistrate Judge’s Memorandum and Recommendation (“M&R”), (Doc. No. 306), recommending that this Court deny the motion to compel without prejudice and grant the motions to dismiss. The parties have not filed objections to the M&R, and the time for doing so has expired. Fed. R. Civ. P. 72(b)(2).

I. BACKGROUND

No party has objected to the Magistrate Judge’s statement of the factual and

procedural background of this case. Therefore, the Court adopts the facts as set forth in the M&R.

II. STANDARD OF REVIEW

A magistrate judge may “hear and determine” nondispositive pretrial matters. 28 U.S.C. § 636(b)(1)(A); *see also Gupta v. Freddie Mac*, 823 F. App’x 225, 226 (4th Cir. 2020) (per curiam); *Mvuri v. Am. Airlines, Inc.*, 776 F. App’x 810, 810–11 (4th Cir. 2019) (per curiam). A party who opposes a magistrate judge’s order on a nondispositive matter must “file objections to the order within 14 days after being served with a copy.” Fed. R. Civ. P. 72(a). “The district judge in the case must consider timely objections and modify or set aside any part of the order that is clearly erroneous or is contrary to law.” *Id.* However, a party “may not assign as error a defect in the order not timely objected to.” *Id.* *See also Solis v. Malkani*, 638 F.3d 269, 274 (4th Cir. 2011) (noting that failure to timely object to magistrate judge’s determinations in either dispositive or nondispositive matters waives further review).

A district court may also assign dispositive pretrial matters, including motions to dismiss, to a magistrate judge for “proposed findings of fact and recommendations.” 28 U.S.C. § 636(b)(1)(A) & (B). The Federal Magistrate Act provides that a district court “shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.* § 636(b)(1)(C); Fed. R. Civ. P. 72(b)(3). However, “when objections to strictly legal issues are raised and no factual issues are challenged, de novo review of the record may be dispensed with.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). De novo review is also not

required “when a party makes general and conclusory objections that do not direct the court to a specific error in the magistrate’s proposed findings and recommendations.” *Id.* Similarly, when no objection is filed, “a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72, advisory committee note).

III. DISCUSSION

Under Rule 72(b) of the Federal Rules of Civil Procedure, a district court judge shall make a de novo determination of any portion of an M&R to which specific written objection has been made. A party’s failure to make a timely objection is accepted as an agreement with the conclusions of the Magistrate Judge. *See Thomas v. Arn*, 474 U.S. 140, 149–50 (1985). No objection to the M&R having been filed, and the time for doing so having passed, the parties have waived their right to de novo review of any issue covered in the M&R. Nevertheless, this Court has conducted a full review of the M&R and other documents of record, and having done so, the Court hereby finds that the recommendation of the Magistrate Judge is, in all respects, in accordance with the law and should be approved. Accordingly, the Court **ADOPTS** the recommendation of the Magistrate Judge as its own.


IV. CONCLUSION

IT IS, THEREFORE, ORDERED that:

1. The Magistrate Judge’s M&R, (Doc. No. 306), is **ADOPTED**;

2. Defendant Compass Group USA, Inc.'s Motion to Compel Plaintiffs Baldwin and Borrero's Discovery Responses, (Doc. No. 288), is **DENIED WITHOUT PREJUDICE**;
3. The Motion for Voluntary Dismissal of Plaintiff Brian Baldwin's Entire Action Without Prejudice, (Doc. No. 299), is **GRANTED** pursuant to the conditions described in the M&R; and
4. The Motion for Voluntary Dismissal of Plaintiff Andres Borrero's Action Without Prejudice, (Doc. No. 300), is **GRANTED** pursuant to the conditions described in the M&R.

Signed: July 31, 2024


Robert J. Conrad, Jr.
United States District Judge

